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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,987	10/13/2004	Christopher Michael Penfold	2955-207	2253

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
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WASHINGTON, DC 20005

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

NOTIFICATION DATE	DELIVERY MODE
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06/05/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary

Application No.

10/510,987

Applicant(s)

PENFOLD ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-13 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-13 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 25, 2007 has been entered.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3-8 and 10-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 3 and 4, "the medical tablets" lacks antecedent basis or is inconsistent with previous terminology. In line 10, the recitation of "a cover piece" is either double recitation with line 2, or an indefinite employment of a term for two different structures.

Claims 3 and 4 depend from canceled claim 2.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by Kozlowski et al. (6,951,353)(Figures 2 and 32-35). Claims 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Flewitt (6,345,717)(Figures 5 or 7C). Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Grabowski (5,954,204). Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Toren (5,549,204). Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Reid (4,574,954). Each discloses a medicinal tablet pack (Figures 2 and 32; as shown or at 11; 10; Figures 5-8; 10; respectively) of medicinal tablets, the pack comprising a base wall (20; 8 or 1; 11; planar portion 1; 13) resistant to permanent deformation which defines a plurality of pockets (see Figures 32-35; 2 or 2; 16; 2; 11) which is integral with the base wall, a tablet (as shown; 4 or 4; 15; 3; 14) in each pocket, and a cover piece (26; 26 or 5; 12; 4; 46) of a rupturable material, wherein the base wall is of sufficient rigid construction as to be relatively inflexible and the pockets are elastic so as to be reversibly flexed (recoverable from Figure 35; at 8A or recovering from Figure 7C; after the act of Figures 3-6 and the finger is removed; inherent feature of plastic blisters; pushing on the pocket from Figure 4 to return to Figure 3).

As to claim 13, Flewitt and Grabowski each disclose (Figures 3-5; Figure 5) the pockets integral with the base wall and the junction between a pocket and the base wall is a hinge.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-4, 6-8, 10-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toren in view of Reid. Toren discloses a pack assembly (Figures 1-4) comprising two packs (one on each side of fold line 5) of medicinal tablets joined together and cover pieces (portions of 4 or surface of 1 receiving the aluminum 4 on either side of 5), the two packs being joined such that the assembly has a stowed configuration (Figure 8) in which the medicinal tablets cannot be expelled and an opened configuration (as in Figure 6) in which the medicinal tablets can be expelled, the cover pieces being in face to face relation when the assembly is in its stowed configuration, each pack comprising a base wall (1) which defines a plurality of locations for the tablets, wherein at each location there is a pocket (2) which is integral with the base wall and constitutes a recess for a tablet, a cover piece (portions of 4 or surface of 1 receiving the aluminum 4 on either side of 5) of a rupturable material and a tablet (3)

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between the pocket and the cover piece, wherein the base wall is of sufficient rigid construction as to be resistant to permanent deformation. Reid discloses a similar pack wherein each individual pocket is elastic so as to be reversibly flexed (pushing on the pocket from Figure 4 to return to Figure 3). To modify the pockets of Toren to be flexible in the manner of Reid would have been obvious in order to facilitate removal of the tablets from the pack, as suggested by Reid.

As to claim 3, each discloses tablets in and of themselves (naked).

As to claim 4, each discloses the tablets provided in a blister pack.

As to claim 6, each discloses at least four pockets.

As to claim 7, Toren discloses the base wall formed from a polymer (see column 3, lines 39-46)

As to claim 8, each discloses the pockets as substantially dome-shaped.

As to claims 10 and 11, Reid further discloses that the pocket can be pushed inwardly causing a stable inverted configuration (see column 1, lines 33-54) bending about a hinge line pre-stressed to invert (see column 2, line 43 through column 3, line 32). To modify the pocket and base wall structure of Toren employing the pre-stressing and stable inverted conversion as taught by Reid would have been obvious in order to facilitate inverting the pocket and removing the tablet, as suggested by Reid.

As to claim 16, Reid further suggests injection molding as a method to form the pack.

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8. Claims 1, 3-8 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flewitt (6,345,717) in view of Toren. Claims 1, 3-8, 10-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid in view of Toren. Flewitt and Reid each disclose a pack (Figures 3 or 5; Figure 1; respectively) comprising a base wall (8; 13) which defines a plurality of locations for the tablets, wherein at each location there is a pocket (2; 11) which is integral with the base wall and constitutes a recess for a tablet, a cover piece (5; 16) of a rupturable material and a tablet (4; 14) between the pocket and the cover piece, wherein the base wall is of sufficient rigid construction as to be resistant to permanent deformation, each individual pocket being elastic so as to be reversibly flexed. Toren discloses a pack assembly (Figures 1-8) comprising two packs (one on each side of fold line 5) of medicinal tablets joined together and cover pieces (portions of 4), the two packs being joined such that the assembly has a stowed configuration (Figures 4 or 8) in which the medicinal tablets cannot be expelled and an opened configuration (as in Figures 2 or 6) in which the medicinal tablets can be expelled, the cover pieces being in face to face relation when the assembly is in its stowed configuration. To modify the pack of either Flewitt or Reid to a two pack arrangement similar to Toren would have been obvious in order to protect the rupturable cover piece prior to opening, as suggested by Toren.

As to claim 3, each discloses tablets in and of themselves (naked).

As to claim 4, each discloses the tablets provided in a blister pack.

As to claim 5, Flewitt and Reid each disclose blisters (2; 11) protruding through openings (9; 12).

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As to claim 6, each discloses at least four pockets.

As to claim 7, Flewitt and Toren each disclose the base wall formed from a polymer.

As to claim 8, each discloses the pockets as substantially dome-shaped.

As to claims 10 and 11, Reid further discloses that the pocket can be pushed inwardly causing a stable inverted configuration (see column 1, lines 33-54) bending about a hinge line pre-stressed to invert (see column 2, line 43 through column 3, line 32). To modify the pocket and base wall structure of Toren employing the pre-stressing and stable inverted conversion as taught by Reid would have been obvious in order to facilitate inverting the pocket and removing the tablet, as suggested by Reid.

As to claim 13, Flewitt discloses the pockets integral with the base wall and the junction between a pocket and the base wall is a hinge.

As to claim 16, Reid further suggests injection molding as a method to form the pack.

9. Claims 10-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flewitt in view of Toren, as employed against claim 1 above, in view of Reid. Reid further discloses that the pocket can be pushed inwardly causing a stable inverted configuration (see column 1, lines 33-54) bending about a hinge line pre-stressed to invert (see column 2, line 43 through column 3, line 32). To modify the pocket and base wall structure of either one of Flewitt or Grabowski employing the pre-stressing and

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stable inverted conversion as taught by Reid would have been obvious in order to facilitate inverting the pocket and removing the tablet, as suggested by Reid.

As to claim 16, Reid further suggests injection molding as a method to form the pack.

10. Applicant's arguments with respect to claims 1, 3-8, 1-13 and 16 have been considered but are moot in view of the new grounds of rejection. The 112 first paragraph rejection is dropped in view of applicants' showing of support for the claimed subject matter.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lataix shows a folded over protected configuration of a blister pack.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Tuesday through Thursday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG